

Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
)  
Deployment of Wireline Services Offering ) CC Docket No. 98-147  
Advanced Telecommunications Capability )  
)  
Implementation of the Local Competition ) CC Docket No. 96-98  
Provisions of the Telecommunications Act of 1996 )

**OPPOSITION OF NETWORK ACCESS SOLUTIONS CORPORATION**

Network Access Solutions ("NAS") requests that the Commission deny Bell Atlantic's request to reconsider the decision in the recent Line Sharing Order permitting state public utility commissions to determine the disposition of known interfering technologies.<sup>1</sup>

**ARGUMENT**

As all parties recognize, lines carrying alternate-mark inversion ("AMI") T1 signals have a strong potential to interfere with advanced services operating over wires that lie in close physical proximity. Because of this interference potential, and the need for removal of barriers to the deployment of advanced services, the FCC has made clear that it believes "industry should discontinue deployment of well recognized disturbers, such as AMI T1" and "should, to the fullest extent possible, replace AMI T1 with new and less interfering technologies."<sup>2</sup>

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1. See Bell Atlantic Petition for Clarification and/or Reconsideration of *Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98* (rel. Dec. 9, 1999) ("Line Sharing Order"), filed Feb. 9, 2000 ("Bell Atlantic Petition").
  2. Deployment of Wireline Service Offering Advanced Telecommunications Capability, *First Report and Order and Further Notice of Proposed Rule Making*, 14 FCC Rcd 4761, 4800 [¶ 74] (1999) ("Advanced Services Order").

Nevertheless, acknowledging a division of view on the best way to eliminate use of AMI T1 and other disturbers, the FCC chose neither to order carriers to phase out the use of AMI T1, nor to leave decisions over the deployment of AMI T1 in the hands of the incumbent LECs. Instead, it adopted a compromise by holding that state PUCs should determine the disposition of known interfering technologies such as AMI T1.<sup>3</sup>

Bell Atlantic now requests that the Commission reconsider this decision and leave the disposition of AMI T1 to incumbent LECs.<sup>4</sup> The company makes two arguments in support of this request, but neither argument is persuasive. First, it argues that competitive market forces will be adequate to address the disposition of AMI T1. The Commission already specifically rejected this “market forces” approach “because of the vested interest that incumbent LECs have in their own substantial base of known disturbers such as analog T1.”<sup>5</sup> Bell Atlantic raises no new argument in favor of this approach on reconsideration, and the Commission should reject it again.<sup>6</sup> In fact, market forces would have a deleterious effect on advanced services, since there is no market-based incentive for an incumbent LEC to replace bottleneck AMI T1 service with competitive advanced services for which the profit margins are much smaller.

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3. Line Sharing Order at ¶ 218.

4. Bell Atlantic Petition at 9. Bell Atlantic also raises three other issues on reconsideration. NAS expresses no opinion on these other issues.

5. Line Sharing Order at ¶ 219.

6. See Amendment of Part 97 of the Commission’s Rule Concerning Establishment of a Codeless Class of Amateur Operator License, *Memo. Op. and Order*, 7 FCC Rcd 1753 (1992) (petitions dismissed because no new arguments were presented).

Second, Bell Atlantic claims that the Commission's decision is inconsistent with the agency's "first in time, first in right" policy under which existing services have priority over newcomer services in interference situations.<sup>7</sup> But this claim is false. The Commission did not hold that AMI T1 service must give way to newly deployed advanced services. Instead, it left decisions about known disturbers up to the individual states, which may or may not order their removal. As the Commission would readily acknowledge, if segregation of known disturbers permits the deployment of advanced services, a state need not order the cessation or phase-out of the disturbing technologies at all.<sup>8</sup> Bell Atlantic can raise any argument regarding the first-in-time priority rights of AMI T1 before any state commission that is considering the phase-out of AMI T1.

Even if the Commission had ordered the phase-out or sunset of AMI T1, however, it would not violate any first-in-time, first-in-right policy. The Commission's cases stand, at most, for the proposition that new services must not interfere with existing services, rather than that new services must accept interference from older technological inefficient services.<sup>9</sup> Since newly deployed advanced services do not cause interference to existing AMI T1 service, this policy is inapplicable.

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7. Bell Atlantic Petition at 9-10.

8. See Line Sharing Order at ¶ 218 ("a state first could allow for segregation of the disturber . . . if the disturber still interferes or precludes deployment of new and less interfering technologies, the state then could establish a sunset period for it").

9. Line Sharing Order at ¶ 211 n. 498.

## CONCLUSION

The Commission should reaffirm its decision to leave the disposition of known disturbers to the state public utility commission.

Respectfully submitted,

NETWORK ACCESS SOLUTIONS CORPORATION

By: 

Rodney L. Joyce  
J. Thomas Nolan  
Shook, Hardy & Bacon LLP  
600 14th Street, NW  
Washington, D.C. 20005-2004  
(202) 783-8400

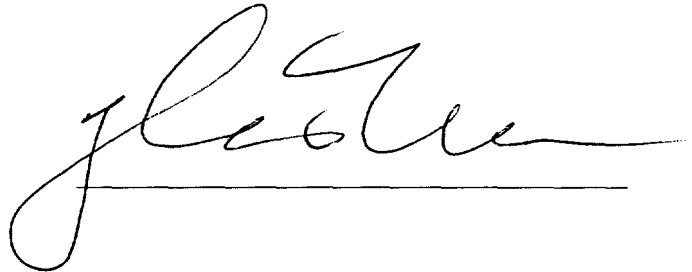
Its attorneys

Dated: March 22, 2000

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of March, 2000, a copy of the foregoing "Opposition of Network Access Solutions Corporation" was served by first class mail, postage prepaid on the following:

Donna M. Epps  
Bell Atlantic  
1320 North Courthouse Road  
Eighth Floor  
Arlington, Virginia 22201

A handwritten signature in cursive script, appearing to read "J. L. Epps", is written over a horizontal line.